IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

OP.No. 18282 of 2001(B)

PETITIONER:

JOSE K PHILIP, KUNNAMKANDATHIL HOUSE, KUTTOOR, THIRUVALLA.

BY ADV. SRI.MVS.NAMBOOTHIRY
SRI.S.SANTOSH KUMAR (PERUNAD)

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE SECRETARY TO THE GOVT., DEPT. OF LABOUR AND REHABILITATION, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA MOTOR TRANSPORT WORKERS WELFARE FUND, REPRESENTED BY THE CHIEF EXECUTIVE, KOLLAM.

3. THE DISTRICT EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND, PATHANAMTHITTA.

4. THE TALUK TAHSILDAR, THIRUVALLA.

5. K.G. TITUS, SON OF GEORGE, KUNNAPUZHA HOUSE, KOIPURAM VILLAGE, PULLADMURI, THIRUVALLA.

R5 BY ADV. SRI.V.V.SURENDRAN
R2 AND R3 BY ADV. SRI.P.RAMAKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 29382 OF 2001 IN OP 18282 OF 2001

DISMISSED

12.12.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE SALE AGREEMENT DATED 16.10.89 BETWEEN THE PETITIONER AND 5TH RESPONDENT.

EXT.P2 TRUE COPY OF THE NOTICE UNDER SECTION 7 OF THE RR ACT ISSUED TO THE PETITIONER BY THE 4TH RESPONDENT ON 30.5.2001

EXT.P3 TRUE COPY OF THE APPLICATION DATED 15.6.2001 SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 18182 OF 2001

Dated this the 12th day of December, 2007

JUDGMENT

Petitioner is challenging the demand for motor transport workers welfare fund contribution in respect of stage carriage of which petitioner was the registered owner and fifth respondent was the operating owner. Even though petitioner was served with provisional determination order, petitioner did not choose to file any objection. Therefore the demand as proposed was finalised and final determination order was sent to the petitioner, which the petitioner declined to receive. However, it is seen that fifth respondent received the final determination order and he contested the same in appeal, though unsuccessfully. The demand is only for three workers and no stage carriage can be operated without three workers. Therefore there is no scope for interfering with the demand. So far as recovery is concerned, it is for the petitioner and the fifth respondent to decide as to who should pay which will depend upon the terms under which petitioner gave his stage carriage to the fifth respondent for operating

it. O.P. is accordingly dismissed, leaving freedom to respondents 3 and 4 to recover the amount from the petitioner and fifth respondent.

(C.N. RAMACHANDRAN NAIR)
Judge